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THE FIRST CONCENTRATION OF JURIES: THE WRIT OF JULY 21, 1213

AMONG the bits of original material which give us our scanty knowledge of the beginnings of the House of Commons, few have more interest than the royal writ of July 21, 1213, found embedded in the chronicle of Wendover.¹ Few also have given more trouble to the researcher in this field. The House of Commons originated in the bringing together of local juries at a central point to plan taxes or to inform the king on local revenue matters or the doings of his officials. Juries had often been used for such purposes before the device of getting them together and questioning them *en masse* had been thought of. But in studying the origin of an assembly, this feature of concentration is fundamental; and it is highly important to know the very first instance in which the idea was clearly present. For, whether or not this first instance served as a precedent and thus constituted the historical discovery of the new feature, it indicates the degree of development and familiarity reached by the practices and ideas out of which the new institution grew; and it is no small thing in understanding the origin of an institution to know the point at which it was potentially present.

It has been generally supposed that the writ under discussion records the first instance of jury concentration. But the language has at the same time appeared to contain the expression of at least two ideas so at variance with the known practices and conceptions of the time that, being but a chronicler's copy, many scholars have lost faith in the writ and have come to regard it as a text hopelessly corrupt. In the first place, the purpose being to assess the damages and losses inflicted on the Church by the king, why should the king have directed his summons to royal demesne juries, a curious specialization in any case, but particularly so in this, since it has been supposed that the men in the royal villis had little or no knowledge of the matter to be investigated? In the second place, how account for the word *alios* before *ministros suos*, where it clearly

¹ "In crastino autem misit rex litteras ad omnes vicecomites regni Angliae, praecipiens ut de singulis dominicorum suorum villis quatuor legales homines cum praeposito apud Sanctum Albanum pridie nonas Augusti facerent convenire, ut per illos et alios ministros suos de damnis singulorum episcoporum et ablatiis certitudinem inquireret, et quid singulis deberetur." Stubbs, *Charters*, fifth ed., p. 276.

implies that the reeve and four men were royal ministers, an implication apparently contrary to fact?

Two noteworthy attempts to grapple with these difficulties, which have appeared in recent volumes of the *English Historical Review*,² have yet left scholars questioning and dissatisfied. Mr. Davis avoids the troublesome implication of *alios ministros suos* by an emendation which, as Mr. Turner justly remarks, makes the chronicler's copy look less like a royal writ than it does already. He retains the traditional idea that the juries were drawn from the royal demesne, but believes that they were consulted in the localities by the sheriffs who brought the findings to the central meeting of August 4. Mr. Turner rejects the royal demesne juries on the ground stated above. To assume jurors not having a knowledge of the facts would do violence to a stable characteristic of the primitive sworn inquest. He is forced to believe, then, that they were juries drawn from the villas on the bishops' estates, and he explains the *dominicorum suorum* by imagining an omitted prefatory recital in which the bishops and their wrongs were mentioned, thus making *suorum* refer to the bishops rather than to the king. Moreover, Mr. Turner appears to believe that the juries may actually have gathered at St. Albans on August 4, but that the king soon recognized that the testimony of these ecclesiastically biased groups needed sifting and hence, through his writ of August 31,³ undertook to cooperate with the archbishop in a mutual inquisition held in the localities.

Is it not possible to make a reasonable interpretation of the document without resorting to a dubious emendation or a supposed omission? A valid starting-point may be taken in Mr. Turner's dictum that no juries of this time could have been judges of fact except in the rudimentary way which is now well recognized in most forms of the primitive inquest. These juries, then, whoever composed them, were chosen because they knew or were supposed to know about the damages and losses which the king had inflicted

² H. W. C. Davis, *English Historical Review*, XX. 289, 290; G. J. Turner, *ibid.*, XXI. 297-299.

³ "Rex vicecomiti Somerset, et Dorset, etc. Tibi precipimus quod sine dilacione ex parte nostra praecipias Roberto de Berkeley, Rogero de Penton, et Osberto filio Willelmi, quod omni occasione postposita veniant ad diem et locum, quos dominus episcopus Bathon' tibi scire fecerit, ad audiendam inquisitionem de ablatis et dampnis episcoporum et clericorum, et omnium virorum ecclesiasticorum et aliorum negotium ecclesiae contingentium, faciendam, coram clericis domini Cantuar' archiepiscopi, quos ad hoc per litteras suas patentes assignaverit.

"Et summone ex parte nostra omnes illos de balliva tua, qui custodiam vel aliquam ballivam habuerunt de rebus ecclesiasticis a tempore mote discordie inter nos et clerum Angliae, quod tunc coram predictis clericis domini archiepiscopi compareant, ad predictam inquisitionem audiendam.

"Teste meipso apud Northampton, xxxi die Augusti." *Foedera*, I. 114. See also *Close Rolls*, I. 164, 165.

on the Church. What men in the localities knew most on this subject? A quite definite answer is found in the *Annals of Waverley* for the year 1208. After telling of the publication of the interdict and how the angry king sent "his ministers" throughout England to confiscate church property, the chronicler continues: "Qui circueuntes regionem saisierunt bona clericorum mobilia et immobilia intra et extra, committentes curam rerum illarum in singulis villis vicinis hominibus, per quorum manus clerici perciperent de rebus suis necessaria".⁴ It is not possible to suppose that the king selected for this charge men in the bishops' villis. But it is altogether likely that men in nearby royal villis were used. From the king's point of view, such men would have been in every way most available. And it need not be supposed that every royal vill in the diocese, or even in the neighborhood, was concerned; it is clear, from the context, that *singulis* is used here in its frequent sense of "separate" or "individual" rather than "each" or "every". We may conclude that as many and such villis were selected as circumstances required.

That local groups had had custody and oversight of church property since 1208 and were, in August, 1213, regarded as having exceptional knowledge of the facts and as men whose presence at the local inquest the king desired in his own interest, is shown from the above mentioned writ of August 31: "Et summe ex parte nostra omnes illos de balliva tua, qui custodiam vel aliquam ballivam habuerunt de rebus ecclesiasticis a tempore mote discordie inter nos et clerum Anglie, quod tunc coram predictis clericis domini archiepiscopi compareant, ad predictam inquisitionem audiendam". As to the kind of group in each vill to which the confiscated property had been entrusted, it is highly probable that it consisted of the reeve and four men. For over a century, villis had nearly always been thus represented when called upon for any kind of public service; and in 1225 this group was employed throughout the country in collecting a "fifteenth"; the money passed into their hands first, a proceeding quite analogous to the handling of the church property in the instance under consideration, and there is an interesting parallelism in language: "Quam quidem quintam decimam milites illi recipient per manus quatuor legalium hominum et prepositorum singularum villarum," . . .⁵ It seems necessary to conclude that

⁴The whole passage concerned reads: "Rex igitur hoc edicto generaliter pronunciato per Angliam, miro modo turbatus, precepit confiscari per universum regnum suum omnes possessiones episcoporum et clericorum et virorum religiosorum, et omnia bona ecclesiastica, et misit per singulas provincias ministros suos tam clericos quam laicos ad confiscanda bona ecclesiarum. Qui circueuntes regionem", etc. Stubbs, *Charters*, fifth ed., p. 274; *Ann. Wav.*, p. 260.

⁵"Writ for the Collection of the Fifteenth." Stubbs, *Charters*, fifth ed., p. 356.

the juries summoned on July 21 were the same as those summoned on August 31 and that they consisted of the men in the demesne villis who had been keeping the church property. The order of events, then, was this:

1. The king, in 1208, turned over the confiscated church property in each diocese to the reeve and four men of certain nearby demesne villis. These men retained more or less custody or oversight of this property until 1213.

2. After his surrender to the pope, May 15, 1213, John was absolved by the archbishop on July 20, four days after the latter's landing in England. Two objects must immediately engage the king. First, he must assemble a council to further his cherished purpose of an expedition to France. The barons had long been refusing to follow him to France on the ground that he was excommunicate. Second, he was bound, however reluctantly, to take steps to indemnify the Church. The first step was to assess the "damages and losses", and the writs were sent on the day after he was freed from excommunication. The men who knew the facts and who at the same time would not be likely to overestimate the royal depredations were the groups from those neighboring royal villis to which the king had entrusted the confiscated goods. Through the sheriffs, he summoned them to St. Albans for August 4. The word *singulis* in the second line of the writ undoubtedly had the same meaning as in its analogous use in the passage from the *Waverley Annals*. Mr. Turner's fatal objection to demesne juries thus appears to be removed, and the writ throughout presents no real difficulty and may be accepted exactly as it stands in *Wendover*. As to the implication conveyed by the words *per illos et alios ministros suos* that the four men and reeve were ministers, it may be said: first, that men who had been acting so long as royal custodians might, with no great impropriety, be called ministers, especially in view of the very loose, general, and often humble senses in which *minister* was then used; secondly, if Mr. Turner believes that the episcopal reeve alone gives a sufficiently ministerial tinge to his group from the bishop's vill to account for the *alios*, we are certainly in no greater difficulty when we posit a reeve and four men from a royal vill. One has always been a little curious to know just who these *alios ministros suos* were from whom the king expected additional information. The sentence in the *Waverley Annals* just preceding the one quoted above suggests an answer: . . . "et misit per singulas provincias ministros suos tam clericos quam laicos ad confiscanda bona ecclesiarum". These men must also have had exceptional knowledge of the matters under investigation.

3. It has generally been concluded from the silence of the chronicles which tell of the St. Albans meeting that, for some reason, the plan fell through and the summoned juries did not convene. There is no reason to question this conclusion. It is highly improbable that the monkish chroniclers would have failed to mention an inquest in which the whole Church was deeply interested. From July 21 to August 4 was doubtless too short a time to carry out such an unusual scheme.

4. During August, the Archbishop of Canterbury seems to have taken the initiative in ordering local inquests on the same subject. He was probably exasperated by John's delays. John must have felt the necessity, if inquests were to be held, of having his own interests safeguarded; and, on August 31, sent out the writs of that date cited above. The same men were summoned who had been put in charge of the church goods in 1208, and, if the present deductions are sound, the same who had been named in the writs of July 21.

This explanation of the famous writ leaves it what it traditionally has been supposed to be, except that it is not to be believed that *every* royal vill was included in the summons. But its study in the light of what happened at the opening of John's quarrel with the Church and the local inquest ordered on August 31 removes, in the opinion of the writer, the difficulties which have beset its interpretation.

ALBERT BEEBE WHITE.